

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/994,560
Confirmation No.: 8731
First-Named Inventor: Harold L. Bennett
Filing Date: November 27, 2001
Group Art Unit: 1714
Examiner: Cephia D. Toomer
Attorney Docket No.: 31088-2
Title: IMPROVED PROCESS FOR PRODUCTION OF LOW
TEMPERATURE CHAR DURING PRODUCTION OF LOW
TEMPERATURE TARS

REVISED PETITION TO REVIVE ABANDONED PATENT
IN ACCORDANCE WITH 37 C.F.R. § 1.137 (a), (b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicant hereby revises the Petition to Revive that was electronically filed with the U.S. Patent and Trademark Office on July 16, 2008. The undersigned has discovered a typographical error in the first paragraph wherein it states "Applicant hereby petitions to revive United States Patent No. 5,649,523 ..." It should read as follows, "Applicant hereby petitions to revive U.S. Serial No. 09/994,560 ..." Please see the replacement copy of the petition attached as Exhibit A.

No fees are believed to be necessary, however, should any fees be deemed required, the Commissioner is authorized to charge such fees to Deposit Account No. 23-3030, but is not to include payment of issue fees.

The Commissioner is respectfully requested to contact the undersigned attorney by telephone to resolve any issues regarding the correction to the Petition to Revive filed on July 16, 2008.

Respectfully submitted,

By: /Quentin G. Cantrell/
Quentin G. Cantrell, Reg. No. 47,469
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137
(317) 713-4953

Electronic Patent Application Fee Transmittal

Application Number:	09994560			
Filing Date:	27-Nov-2001			
Title of Invention:	Process for production of low temperature char during production of low temperature tars			
First Named Inventor/Applicant Name:	Harold L. Bennett			
Filer:	Quentin G. Cantrell/Traci Johnson			
Attorney Docket Number:	31088-2			
Filed as Small Entity				
Utility Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Petition fee- 37 CFR 1.17(f) (Group I)	1462	1	400	400
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				400

DECLARATION OF HAROLD BENNETT

I, Harold Bennett, on my oath, declare as follows:

1. I have personal knowledge of the facts contained in this declaration. I am over the age of eighteen (18), and am competent to make this Declaration and to testify with regard to its contents.

2. I am the inventor and assignor of U.S. Patent Application No. 09/994,560, filed Nov. 27, 2001, entitled "Improved Process for Production of Low Temperature Char During Production of Low Temperature Tars."

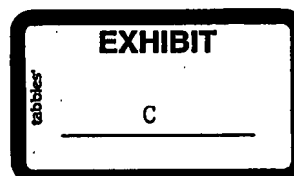
3. I only recently learned that my application had become abandoned. Because of the recent increase in oil prices, I believe my invention will be of increased value, and I have had opportunity to consider some new business opportunities involving my invention. This recently lead me to check on the status of my application on line, but I could find no record of it.

4. When I failed to find any record of my application, I contacted my attorneys. That was on July 11, 2008. They indicated that the file was in off-site storage, and that they would contact me when the file had been retrieved.

5. On July 14, 2008, my attorneys contacted me, and informed me that the Patent Office had sent a Notice of Abandonment on Nov. 28, 2003.

~~6. Based on our records, the Notice of Abandonment was issued by the Patent Office~~
on the mistaken belief that we had not responded to a January 15, 2003 Office Action. According to our records, a response to the January 15, 2003 Office Action was filed on May 15, 2003, along with a petition and fee for a 1 month extension of time, and was therefore timely.

7. Furthermore, based on our records, the Patent Office communicated with the office of my attorneys on July 24, 2003, because the Examiner could not find the response that



was filed on May 15. According to our records, the Examiner indicated that the response might be with the scanning department. My attorneys' office indicated that, if that turned out to be incorrect, they could send another copy, but no request for an additional copy was ever received.

8. Because there was, in fact, no delay in filing the response to the January 15 Office Action, the abandonment was unavoidable.

9. Between May 15, 2003, and July 11, 2008, I believed that my application was still pending, and awaiting action by the Patent Office.

10. Consequently, any delay in filing a petition to revive the application was unintentional.

11. The foregoing statements are true to the best of my knowledge and belief. I know that if I have made any willfully false statements I may be subject to punishment for perjury.



Harold L. Bennett
Harold Bennett



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
Harold L. Bennett) Before the Examiner
Serial No. 09/994,560) Cephia D. Toomer
Filed: November 27, 2001) Group Art Unit 1714
IMPROVED PROCESS FOR PRODUCTION)
OF LOW TEMPERATURE CHAR)
DURING PRODUCTION OF LOW)
TEMPERATURE TARs) July 16, 2008

PETITION TO REVIVE ABANDONED PATENT
IN ACCORDANCE WITH 37 C.F.R. § 1.137 (a), (b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions to revive United State Patent No. 5,649,523, pursuant to 37 C.F.R. § 1.182, or, alternatively, under § 1.137(a) or (b). This patent became abandoned for failure to timely respond to an Office Action, which response was due April 15, 2003. However, the files of Applicant's counsel reflect that a response was filed on May 15, 2003, including a request for a 1 month extension of time and the requisite fee, as well as an authorization to deduct any fees for any additional extensions of time from a valid deposit account.

The files further reflect that:

1) On July 24, 2003, the Examiner contacted the office of Applicant's counsel, and indicated that the file wrapper at the PTO did not include any response to the January 15 Office Action;

2) In response, office of Applicant's counsel confirmed that, according to its fax records, it had received confirmation that the PTO's fax bank had received all pages of the response on

May 15. The Examiner believed the response may have been submitted to the scanning department at the PTO.

The office of Applicant's counsel indicated that, if the Examiner was unable to locate the response to the office action, it would provide another copy of the response. However, no such request was ever received by Applicant's counsel. See Exhibits A and B (a copy of the response, including the fax transmittal confirmation, and contemporaneous notes recorded at the office of counsel for the applicant, recording communications with the Examiner, respectively).

Applicant asks for a determination by the Director, pursuant to 37 C.F.R. § 1.182, that the application was never properly abandoned, because the required response was timely filed, and that, rather than a Notice of Abandonment, the Patent Office should have either allowed the application or issued an Office Action stating the grounds for continued rejection or objections.

Alternatively, Applicant asks that the application be revived pursuant to 37 C.F.R. § 1.137(a), because the abandonment was not the product of any delay in filing a response to the Office Action, and, therefore, it was unavoidable.

As a third alternative, Applicant asks that the application be revived pursuant to 37 C.F.R. § 1.137(b), because any delay in filing this petition was unintentional. Harold Bennett, the inventor and principal of the assignee, only recently learned, when he attempted to look up the file on line, that the file had become abandoned. See Exhibit C, Declaration of Harold Bennett. Although a Notice of Abandonment was sent to the office of Applicant's counsel, Mr. Bennett never received a copy of that Notice.

A \$400 fee for the petition pursuant to § 1.182, as set forth in § 1.17(f), is enclosed. The Office is authorized to charge any additional fees required to Deposit Account 23-3030, including, should the Commissioner conclude that the patent was unavoidably or unintentionally

abandoned, the difference in the fees required under §§ 1.82 and 1.137(a)(2) or (b)(2). In that event, and since the response to the Office Action was submitted by fax on May 15, 2003, no outstanding response is required under 37 C.F.R. § 1.137(a)(1) or (b)(1). However, a copy of that response (including fax cover page) is attached as Exhibit A, against the possibility that the Patent Office never located the misplaced response. Since the application is for a utility patent application filed after June 8, 1995 no terminal disclaimer is required pursuant to § 1.137(a)(4) or (b)(4).

The Commissioner is respectfully requested to contact the undersigned attorney by telephone to resolve any issues regarding this petition and/or application.

Respectfully submitted,

By: /s/Quentin G. Cantrell

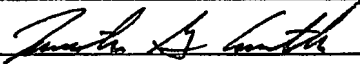
Quentin G. Cantrell, Reg. No. 47,469
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137
(317) 713-4953

031088-000002.QGC.219644/nkg WENMM/SB/21 (12/00)


TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/994,560	
	Filing Date	November 27, 2001	
	First Named Inventor	Harold L. Bennett	
	Group Art Unit	1714	
	Examiner Name	Cephia D. Toomer	
Total Number of Pages in this Submission	10	Attorney Docket Number	31088-2

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment Response to Final O.A. <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request (1 month) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/ Incomplete Application Revised Cover Sheet <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.16 (l) and 1.52(c).	<input type="checkbox"/> Assignment Papers and recordation form <input type="checkbox"/> Drawing(s) (3) Redlined to show changes <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Additional Enclosure (please identify below)
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name	Quentin G. Cantrell
	Woodard, Emhardt, Naughton, Moriarty & McNett
Signature	
Date	May 15, 2003

Certificate of Mailing

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office to (703) 746-4176 on this date:			
Typed or printed name	Quentin G. Cantrell		
Signature		Date	May 15, 2003

EXHIBIT

tabbies

A

FEE TRANSMITTAL FOR FY 2003

Patent fees are subject to annual revision.
Transmitted Via Facsimile to: 703-746-4176

Complete if Known

Application Number 09/994,560
Filing Date November 27, 2001
First Named Inventor Harold L. Bennett
Group Art Unit 1714
Examiner Name Cepha D. Toomer
Attorney Docket Number 31088-2

Total Amount of Payment (\$55.00)

METHOD OF PAYMENT

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number 23-3030

Deposit Account Name Woodard, Emhardt, Moriarty, McNett & Henry LLP

The Commissioner is authorized to: (check all that apply)

- ☒ Charge fee(s) indicated below ☐ Credit any overpayments
☒ Charge any additional fee(s) during the pendency of this application, excluding the payment of issue fees
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility Filing Fee	
1002	330	2002	165	Design Filing Fee	
1003	520	2003	260	Plant Filing Fee	
1004	750	2004	375	Reissue Filing Fee	
1005	180	2005	80	Provisional Filing Fee	
SUBTOTAL (1) (\$)					

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee From Below	Fee Paid
-20** =		X	
Independent Claims -3** =		X	
Multiple Dependent			

Large Entity Fee Code	Entity Fee (\$)	Small Entity Fee Code	Entity Fee (\$)	Fee Description
1201	84	2201	42	Claims in excess of 20
1203	280	2203	140	Independent claims in excess of 3
1204	84	2204	42	Multiple dependent claim, if not paid
1205	18	2205	9	**Reissue independent claims over original patent **Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner's Action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner's Action	
1251	110	2251	55	Extension for reply within first month	55.00
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1808	180	1808	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other Fee (specify)

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$55.00)

SUBMITTED BY

Name (Print/Type)

Quentin G. Cantrell

Registration No.

47,469

(Attorney/Agent)

Telephone

(317) 634-3456

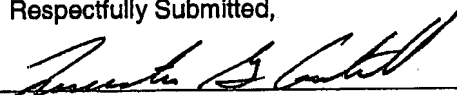
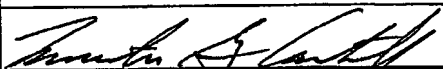
Signature

Quentin G. Cantrell

Date

May 15, 2003

031088-000002.QGC.219645//nkg////WEMMH (4/03)

REQUEST FOR EXTENSION OF TIME	Atty. Docket No. 31088-2		Serial No. 09/994,560	
	Applicant Harold L. Bennett			
	Filing Date November 27, 2001		Group	1714
		Examiner		Cephia D. Toomer
Entity				
<input type="checkbox"/> Large <input checked="" type="checkbox"/> Small			Date Filed	November 27, 2001
Applicant's attorney requests that the date for responding to the Office Action dated January 15, 2003				
be extended for one month(s) to and including			May 15, 2003	
Large Entity		Fee	Small entity	
<input type="checkbox"/> 1 st mo. ext.	110	<input checked="" type="checkbox"/> 1 st mo. ext.	55	
<input type="checkbox"/> 2 nd mo. ext.	410	<input type="checkbox"/> 2 nd mo. ext.	205	
<input type="checkbox"/> 3 rd mo. ext.	930	<input type="checkbox"/> 3 rd mo. ext.	465	
<input type="checkbox"/> 4 th mo. ext.	1,450	<input type="checkbox"/> 4 th mo. ext.	725	
The applicable fee is set forth above. The Patent and Trademark office is authorized to charge any deficiency or apply any overpayment credit to Deposit Account No. 23-3030 .				
Respectfully Submitted,				
By 				
Quentin G. Cantrell				
Reg. No. 47,469				
Woodard, Emhardt, Moriarty, McNett & Henry LLP				
Bank One Center Tower				
111 Monument Circle, Suite 3700				
Indianapolis, Indiana 46204-5317				
(317) 634-3456				
First Class Mail				
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office to (703) 746-4176 on this date:				Date of Deposit May 15, 2003
Name of Registered Representative		Quentin G. Cantrell		
Signature				Date of Signature May 15, 2003